

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

In Re:	)		
	)		
YOLANDA CAROL ORR,	)	Case No.	12-13457-TMW
	)	Chapter 7	
	)		
Debtor.	)		

**MOTION TO REOPEN CASE AND  
REAPPOINT TRUSTEE AND BRIEF IN SUPPORT  
AND NOTICE OF OPPORTUNITY FOR HEARING**

**COMES NOW** Robert A. Brown, the Trustee of the above-mentioned bankruptcy estate, and files this Motion to Reopen the above-mentioned case because of the discovery of assets in the case, and in support thereof states as follows:

1. The Debtor filed her voluntary petition in bankruptcy under Chapter 7 of the United States Bankruptcy Code on the 12<sup>th</sup> day of July, 2012; Robert A. Brown was appointed Trustee on July 12, 2012; the Meeting of Creditors, pursuant to 11 U.S.C. Sec. 341, was held on August 7, 2012; a Report of No Distribution was filed by the Trustee on or about August 15, 2012; the Debtor was granted a discharge and the Final Decree closing the case was issued.

2. This Motion to reopen the case is for the purpose of administering assets of the case and is brought pursuant to 11 U.S.C. Sec. 350 and Rule 5010 of the Rules of Bankruptcy Procedure.

3. After the Trustee filed the Report of No Distribution the Trustee became aware of IRS and Oklahoma Tax Commission refunds in the approximate sum of \$1667.20, certain monies that is an asset to the bankruptcy estate. Had the Trustee been aware of this at the time of the filing of the Report of No Distribution, the Trustee would not have filed the report.

4. The Trustee is in a position to recover the above-mentioned monies and by so doing would generate assets for the estate, which would require administering.

5. Reopening the case for the purpose of collecting the above-mentioned assets would not

jeopardize the rights of any parties to this bankruptcy, but would generate proceeds to be distributed to the creditors of the debtor.

**WHEREFORE**, the Trustee moves this Court to issue its Order reopening the case for the purpose of collecting and administering the asset for the benefit of all creditors of the estate, and that the United States Trustee reappoint Robert A. Brown as Trustee of this case.

### **BRIEF IN SUPPORT OF MOTION TO REOPEN CASE**

The Bankruptcy Code in 11 U.S.C. Sec. 350(b) states that "[a] case may be reopened in the Court which such case was closed to administer assets, to accord relief to the debtor, or for other cause." Consequently, the Court is granted broad discretion in allowing a case to reopened. The Court in In Re: Stanke, 41 BR 379 (Bkrtcy. 1984) stated that "[t]he motion to reopen is addressed to the sound discretion of the court." This theory has been followed in several cases and has been taken a step further in the case of In Re: Mullendore, 741 F.2d 306 (1984) where the Court stated that "[e]ven though the Bankruptcy Court has discretion in many instances whether to reopen an estate, it is the duty of the Court to reopen an estate whenever prima facie proof is made that it has not been fully administered."

The Court should allow the case to be reopened pursuant to 11 U.S.C. Sec. 350 to allow the Trustee to pursue the asset of the estate for the benefit of all creditors.

Rule 5010 of the Rules of Bankruptcy Procedure provides that "[a] case may be reopened on Motion of the Debtor or other party in interest pursuant to Section 350(b) of the Code." The former Trustee in Bankruptcy of a case is a party in interest who can move to reopen a bankruptcy case. In Re: Stanke, 41 BR 379 (Bkrtcy. 1984).

The Trustee, being a party in interest, should be allowed to reopen the case for the purpose of administering assets.

### **NOTICE OF OPPORTUNITY FOR HEARING**

**Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document.** If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or

objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 14 days from the date of filing of the request for relief. You should also serve a file-stamped copy of your response or objection to the undersigned movant/movant's attorney [and others who are required to be served] and file a certificate of service with the court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice.

**The 14 day period includes the three (3) days allowed for mailing provided for in Bankruptcy Rule 9006(f).**

/s/ Robert A. Brown  
ROBERT A. BROWN, TRUSTEE, OBA #11235  
123 West 7<sup>th</sup> Avenue, Suite 102  
Stillwater, Oklahoma 74074  
405.377.8185/ 405.377.8187 [fax]  
[bob@bobbrownattorney.com](mailto:bob@bobbrownattorney.com)

**CERTIFICATE OF SERVICE**

This is to certify that on April 17, 2013, a true and correct copy of the of the above and foregoing ***Trustee's Motion To Reopen Case and Reappoint Trustee And Brief In Support And Notice Of Opportunity For Hearing***, filed on April 17, 2012, ***was forwarded, U.S. Mail, first class, postage prepaid***, to all parties on the attached mailing matrix.

/s/ Robert A. Brown  
Robert A. Brown

Label Matrix for local noticing  
1087-5  
Case 12-13457  
Western District of Oklahoma  
Oklahoma City  
Wed Apr 17 10:48:51 CDT 2013

GE Capital Retail Bank  
c/o Recovery Management Systems Corporat  
25 SE 2nd Avenue, Suite 1120  
Miami, FL 33131-1605

USBC Western District of Oklahoma  
215 Dean A. McGee  
Oklahoma City, OK 73102-3426

Aqua Finance Inc  
1 Corporate Dr  
Wausau WI 54401-1724

Bank Of America, N.a.  
450 American St  
Simi Valley CA 93065-6285

Branch and Hurtt Law Firm, P.C.  
901 N. Peters Avenue  
Norman OK 73069-7886

Chase  
P.O. Box 15298  
Wilmington DE 19850-5298

Dept Of Ed/sallie Mae  
Po Box 9635  
Wilkes Barre PA 18773-9635

Discover Fin  
Attention: Bankruptcy Department  
Po Box 3025  
New Albany OH 43054-3025

Recovery Management Systems Corporation  
25 S.E. 2nd Avenue, Suite 1120  
Miami, FL 33131-1605

Reginald V. Orr  
935 Blackjack Lane  
Oklahoma City OK 73160-0901

T-Mobile  
T-Mobile Bankruptcy Team  
PO Box 53410  
Bellevue WA 98015-3410

U.S. Trustee  
United States Trustee  
215 Dean A. McGee Ave., 4th Floor  
Oklahoma City, OK 73102-3444

Wfs Financial/Wachovia Dealer Services  
10750 Forest St.  
Suite 200  
Rancho Cucamonga CA 91730

Robert A. Brown  
123 West 7th, suite 102  
Stillwater, OK 74074-4029

Tearsa Storms Olson  
Storms Law Office  
2400 NW 23rd St., Ste. 102  
Oklahoma City, OK 73107-2408

Yolanda Carol Orr  
12500 S. Western Apt. #42  
Oklahoma City, OK 73170-5938

End of Label Matrix  
Mailable recipients 16  
Bypassed recipients 0  
Total 16